

Applicant : Ernest R. Chacon  
Appl. No. : 10/638,159  
Examiner : Helen OK Chu  
Docket No. : 13710-4001

### **Remarks**

Reconsideration of the application as amended herein is respectfully requested.

### **Telephonic Interview**

Applicant acknowledges and appreciates the courtesies extended to Applicants' representative during the Examiner Interview of July 25, 2007.

### **35 U.S.C. 112 Rejection**

The Office Action rejects Claims 7-22 under 35 U.S.C. 112 because the recitation "a first and said second sleeve being in a non-sealed relationship with each other" is considered new matter. Office Action at ¶ 5. Applicant respectfully traverses this rejection. During the telephonic interview, Applicant respectfully pointed out that the limitations directed to having the sleeves in a non-sealed relationship are supported throughout the application and pointed out that this non-sealed relationship could be seen in the figures. Specifically, Figures 1, 2, 4, and 9 depict drawings of two sleeve members "2A" and "2B" that are not in contact with each other, much less sealed together. The Examiner stated that she would reconsider this rejection.

In addition, The Office Action also rejects Claim 14 under 35 U.S.C. 112 because the recitation "immediate retrieval" is considered new matter and not supported by the original specification. Office Action at ¶ 6. Applicant has amended Claim 14 by deleting that recitation, thereby rendering this rejection moot.

### **35 U.S.C. § 102 Rejection**

The Office Action rejects Claims 7, 8, 13-17, and 22 as being anticipated by Takeno et al. (U.S. Patent No. 6,428,925). Office Action at ¶ 18. Applicant respectfully traverses this rejection. The Office Action states that in Takeno, "there is no bonding or nails put together and is accessible to a user." Office Action at ¶ 18. Applicant

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respectfully submits that this is not correct. As discussed during the telephonic interview, the Takeno reference discloses a bottom case that is sealed with a lid. See, e.g., Col. 4, lines 47-49 ("A top opening of the case 2 that is stored with the battery cells 1 or the top portion of the cell storage space is closed by means of a lid 4.... The battery cells 1 are sealed between the case 2 and the lid 4 ..."); see also Col. 5, line 4 and line 62 ("bonded to each other"); see also Col. 7, lines 26-28; Col. 8, lines 52-59. In contrast, each of Claims 7, 8, and 15 require that the sleeves be "in a non-sealed relationship with each other." Thus, Applicant respectfully submits that Takeno is missing limitations present in each of Claims 7, 8, and 15. Thus, there can be no anticipation.

The Office Action rejects Claims 9, 10, 18, and 19 as being anticipated because the Takeno reference discloses air apertures that pass through the first and second sleeve (Figure 2, Component 9, Component 44; Column 5, Lines 11-19). Office Action at ¶ 18. As discussed during the telephonic interview, the claimed air apertures are different from what the Examiner asserts are air apertures in Takeno. As the claims state, the air apertures in Applicant's disclosure are to assist in insertion and retrieval of a battery from the sleeve (which fits snuggly within the sleeve) because it allows air to escape or enter the sleeve during insertion and removal. Newly amended Claims 7 and 8, 14, 15 and 18 (Claims 9, 10, 18 and 19 have been cancelled) state explicitly that the air apertures are on the terminal end of the sleeve itself and aligned with any battery that might be inserted into the sleeve. The air apertures in the Takeno reference are in a different place (*i.e.*, they are not at the terminal ends and are not aligned with the batteries) and thus do not serve the function of allowing easier insertion or retrieval of the battery.

In regards to Examiner's rejection of Claims 11,12, 20, and 21 because the Takeno reference illustrates in Figure 3 that the diameter of the battery terminal (Component 21; Column 11, Lines 4-5) is larger than the diameter of the air aperture (Component 6), Office Action at ¶ 18, Applicant respectfully traverses this rejection. Component 6 in the Takeno reference is a hollow space – much like a donut hole that is much larger than any battery terminal. See, e.g., Figs. 1-8; claim 1 of Takeno ("...and a

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central space as a hollow surrounded by the inner wall portion and penetrating the trough from top to bottom..."), and does not serve to protect the battery terminals from contact with conductors, as is required by the claims. Nor could the central space in Takeno, since it is not aligned with any battery that is installed into the rechargeable battery case described in Takeno.

The Office Action rejects Claims 7, 8, 13, 15, 17, and 22 under 35 U.S.C. 102(b) as being unpatentable over the Nishiyama et al. reference (U.S. Patent No. 6,174,618). Office Action at ¶ 19. Specifically, Examiner states that the Nishiyama reference illustrates the diameter of the air apertures that pass through the first and second sleeve (Figure 1, Component 2b) are smaller than the diameters of the battery terminals (Figure 1, Component 2b). Applicant respectfully traverses this rejection. As discussed above, the air apertures in Applicant's disclosure are located at the terminal end of the sleeve, and are aligned with any battery that might be inserted into the sleeve. The apertures are adapted to prevent discharge of the batteries. In contrast, the battery holes in Nishiyama are present to facilitate discharge of the batteries, which is the exact opposite of what happens with the claimed apertures. The Office Action also states the first "sleeve" in Nishiyama is shorter than the length of the battery and that the second "sleeve" is less than the length of the exposed battery. Office Action at ¶ 19. Applicant submits that there are no sleeves in Nishiyama at all but rather a cap on each end of the battery that attaches the electrodes to the battery terminals while the rest of the battery is substantially exposed. In fact, Nishiyama states one of the aspects of the invention described therein was the "exposed side faces between the upper and lower support members..." Col. 7, lines 65-66. Together with the prior art description (Col. 1, lines 50-58), the Nishiyama reference teaches away from making a "sleeve" or any other type of case or apparatus from partially or fully covering the battery or batteries.

#### Other Comments

Applicant has amended Claims 7 and 8 to add limitations regarding the air aperture, and has therefore cancelled Claims 9 and 10. Claims 13 and 22 have been

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cancelled. Claims 11, 12, 14, and 15 have been amended, while Claims 16, 18, 19, 20, 21 were previously presented for the reasons stated herein.

### Conclusion

Based on the foregoing, Applicant respectfully submits that the patent application is in condition for allowance, which is respectfully requested.

Should the Examiner have any questions or comments on the application, the Examiner should feel free to contact the undersigned via telephone.

Please charge Orrick's Deposit Account No. 15-0665 for any fees required under 37 CFR §§ 1.16, 1.17 and 1.445.

Respectfully submitted,  
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